

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3474 OF 2020

1. Vivek Vijay Jamadar
Age : 22 years, Occ. Student
R/o Jawalgabet Tq. Omerga
Dist. Osmanabad.
 2. Rashmi Vijay Jamadar
Age : 19 years, Occ. Student
R/o Jawalgabet Tq. Omerga
Dist. Osmanabad.
- .. Petitioners

Versus

1. The State of Maharashtra
Through its Secretary,
Tribal Development,
Mantralaya, Mumbai.
 2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad.
 3. The Principal, Nagesh Karajagi
Orchid College of Engineering
and Technology, Tale Hipparga
Solapur.
- .. Respondents

AND

WRIT PETITION NO. 2628 OF 2020

- Vijay Pandurang Jamadar
Age : 47 years, Occ. Service
R/o Jawalgabet Tq. Omerga
Dist. Osmanabad.
- .. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Tribal Development,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad.
3. The Superintendent of Police
S. P. Office, Osmanabad
Dist. Osmanabad. .. Respondents

Shri Anandsingh S. Bayas, Advocate for the Petitioners in both matters.

Shri P. S. Patil, Addl.G.P. for the Respondents/State in both matters.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 04 AUGUST 2023.**

FINAL ORDER (*Per Shailesh P. Brahme, J.*) :-

. Heard both sides finally at the admission stage considering urgency expressed by the petitioners.

2. The petitioners claim to be the members of the “Koli Mahadev” (Scheduled Tribe). The tribe certificates issued to them were referred to the Scrutiny Committee and same are invalidated by common judgment and order dated 31.08.2019. Being aggrieved they have filed present petitions. The record is common and, therefore, these two petitions are decided together.

3. The petitioners rely upon validity certificates issued to

Raju Pandurang Jamadar (real uncle) and Pravin Jamadar (cousin uncle). They further rely upon old entries of Census 1951, the school record of the relatives and affidavits. According to them the impugned judgment and order is unsustainable in view of the law laid down by the Supreme Court in the matter of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others, 2023(2) Mh.L.J. 785.**

4. The learned Additional Government Pleader supports the impugned judgment and order. He submits that there were contrary entries and manipulations of the school record. The Scrutiny Committee has rightly rejected the caste claims. The validity certificate of Raju is unreliable. It is also submitted that there is manipulation of the school record on a large scale.

5. The learned Addl. G. P. has produced on record the original files of validity holder Raju and Swapna Shripatrao Jamadar. It is shown that validity certificate was issued to Raju on the basis of Swapna. The affidavit of Swapna showing genealogy in the matter of Raju is mismatching. Our attention is also drawn to the statement of Shripati Nagappa Jamadar recorded in the matter of Swapna.

6. We have considered the rival submissions of the parties.

7. It is seen from the genealogy that validity holders Pravin and Raju are paternal side close relatives of the petitioners. There was vigilance report in the matter of Raju. The contrary

entries were considered. We have noticed that Raju was issued with the validity certificate by reasoned order and considering the relevant material. We are of the considered view that validity certificate of Raju is reliable one. We are guided by the law laid down by the Supreme Court in the matter of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others** (cited supra).

8. There is old record of Census 1951 showing names of forefathers of the petitioners which are figuring in the genealogy indicating caste Koli Mahadev. The said entry was not properly dealt with by the Committee. The Committee did not refer this document to the vigilance enquiry. We are of the view that this is clinching material.

9. The submissions of the learned Addl. G. P. on the basis of the files produced on record do not carry much weightage at this stage. The manipulation of the school record of the close relatives cannot impress us. However, the Scrutiny Committee can look into these aspects of the matter during the reverification. The committee has already proposed to conduct the reverification of the validity certificates. In that view of the matter, we hold that both the petitioners are entitled to conditional validities.

10. The common judgment and order is arbitrary and discriminatory. We therefore dispose of the writ petitions by passing following order.

ORDER

- A. The writ petitions are partly allowed.
- B. The impugned judgments and orders are quashed and set aside. The Scrutiny Committee shall issue tribe validity certificates to the petitioners of 'Koli Mahadev' (Scheduled Tribe).
- C. These validities shall be subject to the decision to be taken by the Scrutiny Committee in the reopened matters.
- D. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Aug. 23